

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH SAM,

Defendant.

CASE NO. CR19-0115-JCC-2

ORDER

This matter comes before the Court on the parties' joint motion *in limine* regarding statements by Jerry Goodwill (Dkt. No. 152)¹ and the Government's motion to seal (Dkt. No. 153). Mr. Goodwill is deceased. (Dkt. No. 152 at 1.) Therefore, he is unavailable to testify at trial. Fed. R. Evid. 804(a)(4). In its trial brief, the Government suggested that it intends to attempt to admit statements Mr. Goodwill made against his penal interest pursuant to Federal Rule of Evidence 804(b)(3). (Dkt. No. 138 at 15.) In response, Mr. Sam requested that the Court exclude evidence about how Mr. Goodwill died and why he is unavailable, but did not take a

¹ This document was filed by the Government only, but Mr. Sam highlighted dozens of passages he apparently wishes the Court to consider, so the Court construes the document as a joint motion *in limine* requesting that the Court address all highlighted portions of the transcript. The Court will consider the supplemental motions *in limine* the parties have filed thus far even though they were filed after the deadline. (See Dkt. No. 116.) In the future, the parties must file *all* motions *in limine* by the deadline. Burying motions *in limine* in trial briefs and raising them in supplemental filings does not exempt them from the deadline.

1 position on the Government’s request, nor did Mr. Sam indicate that he sought a ruling on the
2 admissibility of any statements Mr. Goodwill made. (*See* Dkt. No. 145 at 5–6.) Five days later,
3 the Government filed the instant “supplemental submission” to which it attached transcripts of
4 interviews Mr. Goodwill gave to law enforcement spanning roughly 120 pages. (*See* Dkt. Nos.
5 152, 154, 155.) The Government seeks to admit approximately four excerpts from the transcripts
6 and requests that the Court “determine which statements are admissible under Federal Rule of
7 Evidence 804(b)(3).” (Dkt. No. 152 at 2.)

8 In response, Mr. Sam apparently requests for the first time and without argument that the
9 Court admit dozens of statements by Mr. Goodwill. (*See* Dkt. Nos. 154, 155.) Mr. Sam offers no
10 explanation for why these statements are admissible, and the vast majority of them are not
11 statements against Mr. Goodwill’s penal interest. It appears that Mr. Sam simply highlighted
12 statements that he views as favorable to him and hoped the Court would undertake the burden of
13 sorting through them, scouring the Federal Rules, and determining whether there is any ground
14 for admitting them. The Court will not do so.

15 The Court’s rulings are in the tables below. Citations to page numbers are to the blue
16 page numbers created by the Court’s electronic filing system. The rulings address only whether
17 Mr. Goodwill’s statements are statements against his penal interest under Federal Rule of
18 Evidence 804(b)(3). The Court does not address statements by law enforcement or any other
19 evidentiary issue related to Mr. Goodwill’s statements, such as whether they fall within another
20 hearsay exception, whether they are relevant, or whether they are unfairly prejudicial.

21 These rulings provide guidance to the parties but given the method the parties used to
22 present these issues to the Court it is difficult to parse admissible statements from inadmissible
23 statements. If the parties seek clarification or have additional concerns about Mr. Schakel’s
24 expected testimony, they should address it orally before trial or during Mr. Schakel’s testimony.
25 Finding good cause, the Court GRANTS the Government’s motion to seal (Dkt. No. 153). *See*
26 *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178–81 (9th Cir. 2006).

Exhibit A (Dkt. No. 154)

Government's Designation	Defendant's Response	804(b)(3)
60:15-61:4	No Objection	Yes
61:25-62:6	No Objection	Yes

Defendant's Designation	Government Response	804(b)(3)
3:3-3:15	No Objection	No
3:25-4:1	Objection	No
4:4-4:9	Objection	No
9:5-9:6	Objection	No
9:9-9:20	No Objection	No
9:24-9:25	No Objection	No
10:5-10:6	No Objection	No
11:13-11:14	No Objection	Yes
11:25-12:2	Objection	No
12:5-12:6	Objection	No
13:2-13:13	Objection	No
14:1-16:1	Objection	No
18:10-18:15	Objection	No
18:24-19:3	Objection	No
20:15-20:23	Objection	No
21:1-21:14	Objection	No
26:14-26:23	Objection	No
29:12-29:17	No Objection	No
30:1-30:14	No Objection	No
30:18-30:19	Objection	No
31:22-32:17	Objection	No
32:18-32:19	No Objection	Yes
32:19-32:20	Objection	No
33:17-33:21	Objection	No
45:9-45:15	Object in Part	Yes
57:3	Objection	No
62:10-63:9	Objection	No
64:16-64:18	No Objection	No
65:2-65:21	No Objection	Yes
66:12-67:14	Objection	No
70:3-70:5	Objection	No
70:14-70:19	No Objection	Yes
71:3-71:13	Objection	No

Exhibit B (Dkt. No. 155)

Government's Designation	Defendant's Response	804(b)(3)
23:16-23:17	No Objection	Yes
37:8-37:11	Objection	No

Defendant's Designation	Government's Response	804(b)(3)
4:22-4:25	No Objection	No
5:2-5:3	Objection	No
5:14-5:24	Objection	No
7:13-8:5	Objection	No
8:20-9:4	Objection	No
9:5-10:1	Object in Part	Yes
10:8-10:13	No Objection	Yes
10:19-10:21	No Objection	Yes
10:25-11:18	No Objection	Yes
11:19-11:23	Objection	No
12:4-12:19	Object in Part	No
13:8-14:3	Object in Part	No
14:13-14:14	Unclear	No
16:3-16:5	No Objection	Yes
16:6-16:24	Objection	No
16:25-17:15	No Objection	Yes
18:3-18:4	No Objection	Yes
25:3-25:6	Objection	No
26:20-26:23	Objection	Yes
27:21-28:8	Objection	No
28:9-28:10	Objection	Yes
28:11-29:7	Objection	No
29:22-30:24	Object in Part	No
31:12-31:24	Objection	No
32:5-32:12	Unclear	No
32:15-33:5	No Objection	Yes
33:10-33:19	Objection	Yes
33:20	Objection	No

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1 DATED this 3rd day of June 2021.

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5 John C. Coughenour
6 UNITED STATES DISTRICT JUDGE
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